

**AMENDING GOVERNING DOCUMENTS MODIFICATIONS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carol S. Moss**

Senate Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill addresses the process to amend an association's governing documents.

**Highlighted Provisions:**

This bill:

- ▶ authorizes a court to grant a petition to amend an association's governing documents

if:

- the association's vote on the amendment failed to meet the required vote threshold;
- the vote otherwise complied with the governing documents;
- more than 50% of the owners voted in favor of the amendment;
- the petitioner provides notice to each person affected by the petition; and
- the amendment is not against public policy or illegal.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**57-8-39**, as last amended by Laws of Utah 2017, Chapter 324

**57-8a-104**, as last amended by Laws of Utah 2015, Chapters 34, 325 and 387



28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58

---

---

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **57-8-39** is amended to read:

**57-8-39. Limitation on requirements for amending governing documents --  
Petition to amend governing documents -- Limitation on contracts.**

(1) (a) (i) To amend the governing documents, the governing documents may not require:

(A) for an amendment adopted after the period of administrative control, the vote or approval of unit owners with more than 67% of the voting interests;

(B) the approval of any specific unit owner; or

(C) the vote or approval of lien holders holding more than 67% of the first position security interests secured by a mortgage or trust deed in the association of unit owners.

(ii) Any provision in the governing documents that prohibits a vote or approval to amend any part of the governing documents during a particular time period is invalid.

(b) Subsection (1)(a) does not apply to an amendment affecting only:

(i) the undivided interest of each unit owner in the common areas and facilities, as expressed in the declaration;

(ii) unit boundaries; or

(iii) unit owners' voting rights.

(2) Subject to Subsection (3), a unit owner may file, and a court may grant a petition to amend the governing documents if:

(a) each requirement to amend the governing documents as provided in the governing documents is satisfied, except that the vote on the proposed amendment failed to meet the vote threshold;

(b) the association conducted the vote on the proposed amendment in accordance with the governing documents;

(c) unit owners with more than 50% of the voting interests voted in favor of the amendment;

(d) a court determines the amendment is not against public policy or illegal; and

(e) at least 15 days before the day on which the court holds a hearing on the petition, the petitioner gives notice of the hearing to:

- 59 (i) each unit owner;
- 60 (ii) any mortgagee of a mortgage or beneficiary of a deed of trust who is entitled to
- 61 notice under the terms of the governing documents; and
- 62 (iii) each municipality and county in which the association is located that is entitled to
- 63 notice under terms of the governing documents.

64 (3) A court may not grant a petition to amend an association's governing documents if  
 65 the amendment would:

- 66 (a) impair the security interest of a mortgagee of a mortgage or the beneficiary of a
- 67 deed of trust; or
- 68 (b) eliminate any special right, preference, or privilege designated in the governing
- 69 documents.

70 ~~[(2)]~~ (4) (a) A contract for services such as garbage collection, maintenance, lawn care,  
 71 or snow removal executed on behalf of the association of unit owners during a period of  
 72 administrative control is binding beyond the period of administrative control unless terminated  
 73 by the management committee after the period of administrative control ends.

74 (b) ~~[Subsection (2)(a)]~~ Subsection (4)(a) does not apply to golf course and amenity  
 75 management, utilities, cable services, and other similar services that require an investment of  
 76 infrastructure or capital.

77 ~~[(3)]~~ (5) Voting interests under Subsection (1) are calculated in the manner required by  
 78 the governing documents.

79 ~~[(4)]~~ (6) Nothing in this section affects any other rights reserved by the declarant.

80 ~~[(5)]~~ (7) This section applies to an association of unit owners regardless of when the  
 81 association of unit owners is created.

82 Section 2. Section **57-8a-104** is amended to read:

83 **57-8a-104. Limitation on requirements for amending governing documents --**  
 84 **Petition to amend governing documents -- Limitation on contracts.**

85 (1) (a) (i) To amend the governing documents, the governing documents may not  
 86 require:

87 (A) for an amendment adopted after the period of administrative control, the vote or  
 88 approval of lot owners with more than 67% of the voting interests;

89 (B) the approval of any specific lot owner; or

90 (C) the vote or approval of lien holders holding more than 67% of the first position  
91 security interests secured by a mortgage or trust deed in the association.

92 (ii) Any provision in the governing documents that prohibits a vote or approval to  
93 amend any part of the governing documents during a particular time period is invalid.

94 (b) Subsection (1)(a) does not apply to an amendment affecting only:

95 (i) lot boundaries; or

96 (ii) lot owner's voting rights.

97 (2) Subject to Subsection (3), a lot owner may file, and a court may grant a petition to  
98 amend the governing documents if:

99 (a) each requirement to amend the governing documents as provided in the governing  
100 documents is satisfied, except that the vote on the proposed amendment failed to meet the vote  
101 threshold;

102 (b) the association conducted the vote on the amendment in accordance with the  
103 governing documents;

104 (c) lot owners with more than 50% of the voting interests voted in favor of the  
105 amendment;

106 (d) a court determines the amendment is not against public policy or illegal; and

107 (e) at least 15 days before the day on which the court holds a hearing on the petition,  
108 the petitioner gives notice to the hearing to:

109 (i) each member of the association;

110 (ii) any mortgagee of a mortgage or beneficiary of a deed of trust who is entitled to  
111 notice under the terms of the governing documents; and

112 (iii) each municipality and county in which the association is located and that is  
113 entitled to notice under terms of the governing documents.

114 (3) A court may not grant a petition to amend an association's governing documents if  
115 the amendment would:

116 (a) impair the security interest of a mortgagee of a mortgage or the beneficiary of a  
117 deed of trust; or

118 (b) eliminate any special right, preference, or privilege designated in the governing  
119 documents.

120 [~~2~~] (4) (a) A contract for services such as garbage collection, maintenance, lawn care,

121 or snow removal executed on behalf of the association during a period of administrative control  
122 is binding beyond the period of administrative control unless terminated by the board of  
123 directors after the period of administrative control ends.

124 (b) [~~Subsection (2)(a)~~] Subsection (4)(a) does not apply to golf course and amenity  
125 management, utilities, cable services, and other similar services that require an investment of  
126 infrastructure or capital.

127 [~~(3)~~] (5) Voting interests under Subsection (1) are calculated in the manner required by  
128 the governing documents.

129 [~~(4)~~] (6) Nothing in this section affects any other rights reserved by the person who  
130 filed the association's original governing documents or a successor in interest.

131 [~~(5)~~] (7) This section applies to an association regardless of when the association is  
132 created.

133 Section 3. **Effective date.**

134 This bill takes effect on May 1, 2024.